



APPROVED

KITTERY PORT AUTHORITY

May 2, 2013 Meeting Minutes
Council Chambers, Town Hall

Members Present: Bob Melanson, Chairman, Barry Bush, Ray Grenier, Kelly Philbrook, Steve Lawrence, Tom Smith
Members Absent: Dan Arbo
Staff: Harbormaster Mike Blake

The meeting of May 2, 2013 was called to order at 6:02 p.m.

1. Pledge of Allegiance

2. Minutes – April 4, 2013

Mr. Bush moved to accept the April 4, 2013 minutes as submitted

Mr. Grenier seconded

Motion carries unanimously

3. Public Segment

Marnie Billadeau [unclear] inquired about a property owner who was stating he was going to collect a 'toll' to access the Frisbee Pier. Mr. Melanson explained that Mr. D'Amico placed concrete in the launch ramp area to charge people to cross his property to launch boats. A meeting was held with Mr. D'Amico, the Town Attorney, Harbormaster and Mr. Melanson where Mr. D'Amico stated he did not intend to burden the public, but felt it was his right to charge commercial haulers to cross his property. A motor vehicle was placed to block access recently, but has been moved. Subsequent conversations with Mr. D'Amico indicated he was going to talk with Independent Boat Haulers. The Town's position is that they have a public right-of-way over this 150 sf of land, as a prescribed right, dating to 1955, and if Mr. D'Amico persists in preventing access, the Town will exercise legal remedies which would enact the right-of-way. This has not been done as yet.

Mr. D'Amico stated this would only affect commercial vehicles, not pleasure crafts such as kayaks. He pays taxes on the land though he has not received a tax bill and if someone is deriving income from using his land, he should be able to do the same. His charge is for the commercial users.

John Pollard, Independent Boat Haulers, stated he launches boats at Kittery Point and is paid by the boat owners to do so. He has received complaints regarding the Frisbee Pier issue, but has not started service there until this is resolved.

Debbie Driscoll stated she cannot recall at any time that the corner of the parking space was not crossed to launch a boat and there should not be a charge to continue doing something that has been done for over 50 years.

Board Member comment:

Kelly Philbrook echoed Mr. Pollard's comments that resident's boats are launched and there has never been an issue like this. It is unfortunate that an individual moves in and makes such a change that affects so many people.

Steve Lawrence noted boat owners are tax payers supporting the pier. To launch a 30-foot boat costs \$120-\$190 per year extra. Independent Boat Haulers has been in business since 1988 and have crossed that piece of property every year with no damage. There should be no agreement or change in a process that has been occurring since the 1950s.

Tom Smith asked Mr. D'Amico if he has a septic system at the restaurant and if it is on his property. Mr. D'Amico stated a portion of the septic system is on town property. He stated if they want free access over his property as charity, the Town can purchase the property. Mr. D'Amico stated he does not own the property, it is owned by Frisbee Holdings LLC. Mr. Smith stated as a businessman who

utilizes a septic system that sat on another person's property, in this case the Town of Kittery, and then started to charge customers of IBH \$2 per foot to launch in and out at the pier, it seems to be creating negative feelings. Discussion followed regarding IBH charges. Mr. D'Amico stated he will remain in Kittery and continue to charge commercial boat owners a fee. Regarding the septic system, he will remove and relocate it as soon as possible. However, he will select his own charity. He passed out a 'History of Kittery Point' written by his wife and explained that the proceeds were to go to the 68-Hour Kids, but they did not use it. He gave 100 books to the third grade class so they would know something about the area in which they live. He's not asking for praise, however. Mr. Melanson asked Mr. D'Amico if he and Dr. Allister own the property jointly. Mr. D'Amico stated they do. Mr. Melanson read from an email communication:

As it is unlikely I will be able to attend the meeting this evening, I want to reiterate that Mr. D'Amico and I own a group of parking slots together. By agreement I use the first two tandem slots and he the second 2. When he bought the property I made it clear that the land was to be used for parking only and not for business ventures. He cannot demand permission from boat haulers or charge a fee independently nor has he ever discussed this with me. He is not my agent here, I do not give my consent to his actions. They are arbitrary and in my thinking not consistent with community best interests. Dr. Allister.

Mr. Melanson spoke to Mr. D'Amico stating that since a half owner of this property has no desire to do what you are doing, you are compelled, and I direct you, to engage in dialogue with Dr. Allister, and come back to the Port Authority and let us know what you will be doing. And, if you decide to continue to do this, we will be compelled to seek legal remedies with respect to getting the right-of-way, of which we have as a prescribed right.

This concludes the public segment.

4. Budget Report

Year to date Operating Income & Expense- Mike Blake

Revenue collected to date: \$96,289.15; revenue budget is \$107,287

Mr. Melanson thanked Mr. Blake and those that help him get this information to the Port Authority.

5. Harbormaster Report- Mike B

- Harbormaster boat is ready and will go in Tuesday morning;
- Older floats have been welded and repaired to get one more year out of them before they need to be replaced;
- He thanked the Public Works Department for providing him the welding machine and for their help in cleaning out the Pepperrell Cove launch ramp. This year, everything has been cleaned out.
- New mooring assignments have been made;
- Wait list is completed and will be posted on the web site and Harbormaster shack.
- Waiting on assignment of a FEMA representative to review insurance claims from the December 2012 storm. The Town paid \$17,000 and this will be revisited. He is waiting to hear from the insurance adjuster as well.
- Assistant Harbormaster Alan Breton will be starting up the Traip boat launch.

6. Marinas Piers and Floats;

- Public Hearing: Barbara D'Antonio & Arthur Tournas , application to construct a 10-foot x 12-foot float at 150 Whipple Road Map 10 Lot 01, Kittery, Maine. Agent is Sarah Newick of Water Wings. Ms. Newick provided a brief summary of the project, whereby the float will be attached to a stairway previously constructed. The float will be used for a small sailboat and kayak. State and ACOE approval has been received.
There was no public comment.

Mr. Bush moved to grant approval to Barbara D'Antonio and Arthur Tournas to construct a 10x12 foot float at 150 Whipple Road.

Mr. Grenier seconded
No discussion
Motion carries unanimously

- Site Walk Review of 124 Whipple Rd 04-25-13.
- Public Hearing: Duncan & Patricia McEachern. Application to add a 6 x15 foot extension to an existing pier at 124 Whipple Road , Map10 Lot 06, Kittery , Maine . Agent is Zachary Taylor of Riverside Pickering Marine.
Mr. Taylor summarized the project noting the existing pier structure does not provide enough water to allow the owners to access the dock structure during low tides. The proposed pier extension will move the existing float out 15 feet, providing water at all tides.
Board members concurred the additional 15 feet will resolve the lack of water during low tide.
There was no public comment.
Ms. Philbrook moved to approve the addition of a 6x15 foot extension to an existing pier at the property of Duncan and Patricia McEachern, 124 Whipple Road.
Mr. Grenier seconded
Motion carries unanimously

Mr. Taylor stated they are awaiting state and federal permits.

7. Projects:

- Public Hearing: Boating Infrastructure Grant (BIG Project)- Proposed improvements to the Pepperrell Cove Town Landing (Map 27 Lot A), including addition of 6transient slips, 6 transient moorings and utility upgrades. Applicant: Town of Kittery and Department of Public Works. Agent: Baker Design Consultants.
Mr. Melanson noted the grant project was initiated in 2010, with public input and support. It was delayed due to the structural problems of the pier. With the pier replacement, the Town Council approved the design phase of the project in November, 2012. The design was reviewed at the April, 2013 meeting.
Barney Baker, Baker Design Consultants, summarized the program with a slide presentation. The Town provides 25% of the funding with the balance provided by the grant. Utilities (water, electricity and cable) will be provided to the pier via the Harbormaster shack and will run underground along Bellamy Lane. A fire hydrant has also been included. There is no change to the parking or land area, other than the utilities. Space has been designed for 6 transient boats, over 26 feet long, and the Harbormaster boat. Pump out services will be provided, with the inclusion of an additional holding tank. The gangway is 80 feet long to meet ADA compliance. During the off season the gangway will be lifted but remain during the off season. Pedestals for power will be installed in various locations. Utilities will run under the gangway and disconnected during the off season. All local, state and federal permits will be secured.
Al D'Amico, abutter, would like to know if this has received Planning Board approval. Mr. Melanson stated it will be before the Board on May 23. The parking has not changed because this is transient boating. Mr. D'Amico stated he was required to have 100 parking spaces by the Board for transient services.
Milton Hall stated that anything over 4 slips becomes a marina which requires parking.
He asked about the dinghies. Mr. Melanson stated there will be a combination of dinghy use for transient and mooring field boats.
He asked about the 6 moorings vacated by the Portsmouth Yacht Club. Mr. Melanson responded the ACOE stated the moorings could be used by the Town of Kittery.
He asked about the revenue and expenses to run this operation. Mr. Melanson stated there is a \$50-\$65,000 operating budget with revenues from transient boaters and pump out fees.

Debbie Driscoll, Kittery Point, stated she has been told by a number of people that they travel the coast by car and boat, switching along the way. Therefore, parking would be an issue. She also wanted to know where boats would be stored in the winter, what about the quick disconnects for utilities, and the cost to bring utilities to the docks. What are the transient boaters going to do once they get here?

Response:

- Parking is limited at the pier now.
- Mr. Baker: The issue of transient boaters traveling with a car is a very small percentage, in his experience.
- Mr. Baker: The utility costs are estimated at \$60,000. The utility costs are a separate item and some of the work will be done by DPW as part of the town match.
- Mr. Baker: The disconnects are a work in progress and they are consulting with Eaton Power, a marine power systems specialists. The Harbormaster is also concerned that disconnects can be made quickly during rough weather.

David Kaselauskas, Kittery Point: (pointing to plan)

- Mooring area filling in with silt;
- Lateral floats will take a beating;

Response:

Mr. Baker: Transient boaters will need to be helped by locals. He explained the float locations during high and low tide. His mooring area was last dredged in 1919 and future dredging may be needed by the ACOE.

Mr. Melanson stated future maintenance dredging will be investigated. This is an opportunity to upgrade the infrastructure at Pepperrell Cove with \$232,000 in federal grant funds, and noted the Council is supportive and insistent that the utilities be upgraded in this area.

Mr. D'Amico commented that the utility estimate may be low. Right now the utilities are free through his property. If upgraded, it could be done through the same property and he would offer a 99 year right-of-way with no interest.

Mr. Melanson thanked him for his offer and will forward to the Town.

Mr. Smith stated that HL Patton estimated a cost of \$80,000, but did not include DPW's possible participation.

There was no further public comment.

Mr. Grenier suggested speaking with Hubble Marine for electrical design.

Ms. Philbrook asked how many moorings have to be moved, to where, and at who's cost. Mr. Baker stated three moorings have to be moved. Mr. Melanson stated the cost would be part of the project cost.

Ms. Philbrook stated she would agree to the utility upgrades, but not the other expansions. She noted her concern about the costs and ability to achieve the necessary revenues that would then be balanced on mooring holders or the tax payers. A business plan is needed.

Mr. Grenier would like to meet with the Harbormaster to work out a business plan.

Mr. Lawrence asked how often the transient moorings were full in the prior season. Mr. Blake stated 80% of the time. Mr. Melanson stated \$35,000 from boating excise taxes are secured for the next 10 years. The projections need to be firmed up in a business plan.

Mr. Lawrence noted his concern about the design of the front floats during rough weather. Mr. Baker explained the design of the floats should be stable. Discussion followed regarding water depth, pilings, etc.

There was no further discussion. The public hearing closed.

- Comprehensive Harbor Plan, Public Forum. Peter Walsh
An advisory committee has been formed to work with a consultant. This will be an appendix to the Town's Comprehensive Plan with a November estimated completion. A public forum will be held on

June 5 at 6:00 p.m. (location TBD) to engage the community interested in water access. The consultant firm will have a summary report on the existing infrastructure. A second forum will be held in September/October, 2013.

- Rice Ave: Included in the Comprehensive Plan. The Authority needs to address dinghy use at Frisbee Pier. Mr. D'Amico stated Mr. Odam is proposing a taxi service from his pier to moorings.
 - Government Street Overhaul: A survey of work needed should be done. Mr. Lawrence stated the pilings, deck and railings are in good shape. A new ladder is needed. The land-side railing needs to be replaced (DPW). Mr. Lawrence and the Harbormaster will summarize needed improvements for the Authority. Mr. Walsh stated the consulting firm working on the comprehensive harbor plan will be inspecting this on May 9 or 10 and he will coordinate this for Mr. Lawrence and the Harbormaster.
8. New Business:
- Public Hearing:
Title 16.11, Marine Development, Land Use Development Code. Amendment includes changes to allow submittal of Port Authority applications prior to obtaining state and federal permit approvals. Mr. Melanson summarized the amendment changes. The change will allow the KPA to hear proposals concurrent with federal and state review of the applications.
There was no public comment.
Mr. Smith moved to approve the proposed amendment to Title 16.11.2 and 6.11.3
Mr. Grenier seconded
Motion carries unanimously
 - Public Hearing:
Amend KPA Rules & Regulations- Part VII.C - Appeal of decisions of the Port Authority, change the appeal period from thirty (30) calendar days to forty-five (45) calendar days to comply with Title 16.6.2.C Kittery Land Use and Development Code.
Mr. Melanson summarized the proposed amendment to the KPA Rules and Regulations to be consistent with the Land Use Code, Title 16.
Debbie Driscoll asked if the KPA must follow state law in this regard. Mr. Melanson explained state law allows for local appeal periods or 30 days.
Mr. Smith moved to accept the proposed change to the KPA Rules and Regulations, to amend the appeal period (Part VII.C) from 30 calendar days to 45 calendar days.
Mr. Grenier seconded
Motion carries unanimously
 - Kittery Mooring Fields: Mr. Melanson suggested a committee work with the Harbormaster to locate additional mooring areas, to locate three additional moorings displaced by the proposed BIG project, and to locate six moorings for the Portsmouth Yacht Club. Gary Winberg and Mr. Bush will work with Mr. Blake and report to the KPA in September.
9. Correspondence & Comments
- Steve Cutter Memo of 04-16-13: Response from Mr. Cutter thanking the Harbormaster for help with a foundering vessel.
10. Board Members – New & Old Business
- Mr. Lawrence: Is the old hoist still useable? The existing one is too slow. Mr. Blake will follow up on this.
 - Mr. Smith spoke with Frank Frisbee regarding the plaque for the Frisbee Family and when that would be done. The location needs to be determined. Ms. Philbrook stated it should be on the Frisbee Pier, perhaps on the railing facing the parking lot. Ms. Philbrook will compose the

wording and share via email with Authority members and Mr. Frisbee via Mr. Smith. Mr. Lawrence suggested this be temporary and a more permanent location be made if and when the BIG project is completed.

11. Adjourn

Mr. Bush moved to adjourn
Mr. Grenier seconded
Motion carries unanimously

The KPA meeting of May 2, 2013 adjourned at 7:58 p.m.

Submitted by Jan Fisk, May 7, 2013